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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 MARVELLOUS A. X. GREENE,

12 Plaintiff,

2:05-cv-0330-GEB-JFM-PC

13 vs.

14 C. D. C., et al.,

15 Defendants.

ORDER

16 _____/
17 Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action
18 seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate
19 Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local General Order No. 262.

20 On March 31, 2009, the magistrate judge filed findings and recommendations
21 herein which were served on all parties and which contained notice to all parties that any
22 objections to the findings and recommendations were to be filed within twenty days. Plaintiff
23 has filed objections to the findings and recommendations.¹

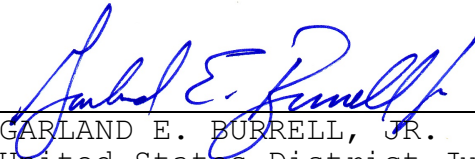
24 _____
25 ¹ Plaintiff's objections are styled "Objections to Magistrate Judge's Findings and
26 Recommendations/Motion to Vacate Judgment/Notice of Appeal." On April 8, 2009, the Clerk
of the Court processed plaintiff's appeal to the United States Court of Appeals for the Ninth
Circuit as an interlocutory appeal. The magistrate judge's findings and recommendations are not

1 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule
2 72-304, this court has conducted a de novo review of this case. Having carefully reviewed the
3 entire file, the court finds the findings and recommendations to be supported by the record and by
4 proper analysis.

5 Accordingly, IT IS HEREBY ORDERED that:

- 6 1. The findings and recommendations filed March 31, 2009, are adopted in full;
- 7 2. Plaintiff's October 24, 2008 motion for summary judgment is denied;
- 8 3. Defendants' November 6, 2008 cross-motion for summary judgment is
9 granted; and
- 10 4. Summary judgment is entered for defendants in this action.

11 Dated: April 23, 2009

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13 GARLAND E. BURRELL, JR.
14 United States District Judge
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23 properly the subject of an interlocutory appeal, see 28 U.S.C. § 1292. In addition, no judgment
24 had been entered in this action at the time plaintiff filed his objections and his motion to vacate
25 judgment is therefore improper and will be disregarded. Plaintiff's notice of appeal does not
26 meet the criteria of Rule 4(a)(2) of the Federal Rules of Appellate Procedure as this court had not
announced any decision on the findings and recommendations at the time plaintiff's notice of
appeal was filed. For these reasons, plaintiff's April 7, 2009 notice of appeal is ineffective to
appeal the judgment to be entered pursuant to this order.